

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Chikara MURAKATA et al. **Confirmation No.: 6880**
Serial No : 10/575,093 Group Art Unit: 1614
(National Stage of PCT/JP2004/015293)
I.A. Filed : October 8, 2004 Examiner: Sun Jae Y. LOEWE
For : THIADIAZOLINE DERIVATIVE

ELECTION WITH TRAVERSE

Commissioner of Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Amendment
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This is in response to the requirement for restriction under 35 U.S.C. § 121 and § 372 mailed from the U.S. Patent and Trademark Office on July 18, 2007. Inasmuch as the one-month shortened statutory period for reply is set in the Office Action to expire on August 18, 2007, this response is being filed by the initial due date for response. This is an express request for any necessary extension of time and authorization to charge any required extension of time fee or any other fees which may be required to preserve the pendency of the present application to Deposit Account No. 19-0089.

RESTRICTION REQUIREMENT

The Examiner has required restriction under 35 U.S.C. § 121 and § 372 to one of the following inventions:

- I. Claims 1, 2, 4-19, 23-28 and 34-56, allegedly drawn to products of Formula I and process of using products of Formula I, wherein Z=sulfur, R^1 =phenyl, $R^2=-C(=W')R^{12}$ with W' =oxygen and $R^{12}=H$ or unsubstituted alkyl.
- II. Claims 1, 2, 8-19, 23-25, 31-56 drawn to products of Formula I and process of using products of Formula I, wherein Z=sulfur, $R^1=-C(=W')R^5$, $R^2=-C(=W')R^{12}$ with W' =oxygen and $R^{12}=H$ or unsubstituted alkyl.
- III. Group III, claims 1-3, 6, 7-19, 23-26 and 29-56 drawn to products of Formula I and process of using products of Formula I, wherein Z=sulfur, R^1 =alkyl or alkenyl or alkynyl, $R^2=-C(=W')R^{12}$ with W' =oxygen and $R^{12}=H$ or unsubstituted alkyl.
- IV. Group IV, claims 1, 2, 4, 8-19, 23-26 and 34-56 drawn to products of Formula I and process of using products of Formula I, wherein Z=sulfur, R^1 =aromatic heterocyclic group, $R^2=-C(=W')R^{12}$ with W' =oxygen and $R^{12}=H$ or unsubstituted alkyl.
- V. Group V, claims 1-56 drawn to products of Formula I and process of using products of Formula I not covered by Groups I-IV.

ELECTION

In order to be responsive to the requirement for restriction, Applicants elect, with traverse, the invention set forth in Group I, **claims 1, 2, 4-19, 23-28 and 34-56**, allegedly drawn to products of Formula I and process of using products of Formula I, wherein Z=sulfur, R^1 =phenyl, $R^2=-C(=W')R^{12}$ with W' =oxygen and $R^{12}=H$ or unsubstituted

alkyl. Further, Applicants elect, with traverse, as a single species **compound 49**, see Table I, page 46 or Example 36, page 67 of the originally filed application.

TRAVERSE

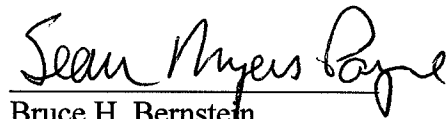
Notwithstanding the election of Group I, in order to be responsive to the requirement for restriction, Applicants respectfully traverse the requirement.

Applicants note that this application is a national stage, and thus under unity of invention practice, the Examiner must establish that the claims lack unity of invention under PCT Rule 13.1 and 37 C.F.R. § 1.475. The Restriction Requirement asserts that Joule et al. (Heterocyclic Chemistry, 3rd edition, Chapman & Hall, 1972, page 452) teaches the common technical feature of the claims and stops at this point, failing to show how the claims of the present invention are anticipated or obvious over Joule et al. Thus, Applicants respectfully submit that the Restriction Requirement fails to comply with PCT Rule 13.1 and 37 C.F.R. § 1.475 for failure to make the proper showing.

Additionally, Applicants respectfully note that the Examiner's conclusions relating to a lack of unity of invention are based entirely upon a finding that an unsubstituted 1,3,4-thiadiazole ring is taught in the prior art. Accordingly, Applicants respectfully submit that the Office will be required to withdraw the Restriction Requirement upon reciting subject matter that is not disclosed in the prior art. Still further, Applicants respectfully reserve the right to rebut any statements that the Office has made relating to the disclosure of the present invention in the prior art.

If there are any comments or questions, the undersigned may be contacted at the below-listed telephone number.

Respectfully submitted,
Chikara MURAKATA et al.


Bruce H. Bernstein
Reg. No. 29,027 42,920

August 15, 2007
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191